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10/723,324	11/26/2003	Lingan Satkunanathan	MS302986.01	9466
27195	7590	06/01/2006	EXAMINER	
AMIN & TUROCY, LLP 24TH FLOOR, NATIONAL CITY CENTER 1900 EAST NINTH STREET CLEVELAND, OH 44114				AUGUSTIN, EVENS J
ART UNIT		PAPER NUMBER		
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**GROUP 3600**

**BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES**

Application Number: 10/723,324

Filing Date: November 26, 2003

Appellant(s): SATKUNANATHAN ET AL.

Himanshu S. Amin

For Appellant

**EXAMINER'S ANSWER**

This is in response to the appeal brief filed 01/03/2006 appealing from the Office action mailed on 08/03/2005.

## **(2) Related Appeals and Interferences**

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

### **(3) Status of Claims**

The statement of the status of claims contained in the brief is correct.

#### **(4) Status of Amendments After Final**

No amendment after final has been filed.

## **(5) Summary of Claimed Subject Matter**

The summary of claimed subject matter contained in the brief is correct.

**(6) Grounds of Rejection to be Reviewed on Appeal**

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

## **(7) Claims Appendix**

The copy of the appealed claims contained in the Appendix to the brief is correct.

**(8) Evidence Relied Upon**

5,671,412 CHRISTIANO 9-1997

## **(9) Grounds of Rejection**

The following ground(s) of rejection are applicable to the appealed claims:

The following ground(s) of rejection are applicable to the appealed claims:

1. Claims 1-4, 6-18, 20-33, 35-43 are rejected under 35 U.S.C. 102(e) as being anticipated by Christiano (U.S 5,671,412).

As per claims 1-4, 6-18, 20-33, 35-43, Christiano discloses a license management system comprising of:

- Determining/monitoring the number of licenses currently in use (column 7, lines 1-45) – *Claims 1, 29,*
- Taking/initiating corrective actions if the number of licenses in use exceeds the number of licenses allowed (column 7, lines 47-67) – *Claims 1, 29*
- The license server keeps track of how many licenses are currently checked out and thus can quickly determine if the maximum number of licenses for a program are in use (column 7, lines 9-12) and take corrective actions (column 7, lines 47-67) - *Claim 11*
- Corrective action includes a warning (column 7, lines 60-61) – *Claims 2, 37*
- Correction action also includes quitting and not allowing the program to be activated (column 7, lines 65-66), therefore denying users access to the application – *Claims 3, 38*
- A diagnostic function that mitigates various license problems (column 3, lines 18-19) – *Claim 8*
- Christiano's invention teaches a "fail safe" mechanism that may allow a license not to be denied (bypass) (column 4, lines 24-26) when the license has been tampered with/corrupted (column 19, lines 19- 21, column 20, lines 21-22, column 18, lines 24-35). A "fail safe" (bypass) mechanism may check a range of server IP addresses to find an network address within a specified range, that can deliver another copy of the licensed program to the client (column 26, lines 9-44). It is well known that each network address represents the location of a computer on a network. Therefore, each server on a

particular address range represents a “backup store” for the licensed program/data –

*Claims 6-9, 35*

- If the fail safe mechanism cannot be implemented and there’s a violation, the system can quit/shutdown the program (column 7, lines 63-67)- *Claims 10-11, 17, 38*
- In order for program/license to be “checked out”, certain information such as user name, host name of client computer system is obtained (log in) (column 4, lines 66-67) – *Claims 12 and 13*
- A diagnostic function which can run and be initiated anytime the user is operating the client computer (column 21, lines 25-28), and can diagnose any program normally available on the client’s computer (column 25, lines 15-17) – *Claim 14*
- Corrective action includes a warning (column 7, lines 60-61) – *Claim 15*
- Correction action also includes quitting and not allowing the program to be activated (column 7, lines 65-66) – *Claim 16*
- License server (store), and a license database to house license data (column 3, lines 63-64, column 4, lines 11-13) – *Claim 18*
- Verifying the validity of license data (column 27, lines 66-67)
- License server/store receiving license request (column 4, line 15), keeping track of licenses being used and taking corrective action if licensing agreement is being violated (column 7, lines 47-67) - *Claim 20*
- Information such as “check out” license and activation data can be logged/saved by the system (column 18, lines 57-lines). It is inherent that a software program has to be installed before being used - *Claims 21, 40*

- License data includes the number of licenses available for a particular program (column 14, line 65) – *Claim 22*
- Christiano teaches a license management system in which license is granted, based on how much time has elapsed since the licensed program has been in operation (column 7, lines 20-30). In order to establish how much time has elapsed, a beginning time (issue date) is necessary – *Claim 23*
- Christiano teaches assigning a unique identifier to a hardware (column 1, lines 28-29), and assigning a unique key to each license (column 7, lines 21-22, lines 65-67) – *Claim 24*
- The license is denied to the client when the client violates the licensing policy (column 4, lines 20-24). Christiano’s invention teaches a “fail safe” mechanism that allows licenses not to be denied (bypass) (column 4, lines 24-26). Therefore, licenses can be “checked out” when there are no licenses available (column 17, lines 17-21) – *Claim 25*
- Bypass mechanism checking a range of IP addresses when failures occur to find an IP address within the specified range that can deliver the licensed program to the client (column 26, lines 9-44) – *Claim 26*
- Client computer having display interface to output data (column 6, line 17, column 25, line 46) – *Claims 27,28*
- Comparing the number of licenses currently in use plus requested against the number of licenses to be used concurrently (column 19, lines 65-67) – *Claims 30, 31, 33*

- If the number of licenses currently being used plus requested is greater than the number of licenses available, than there may be a violation (column 20, lines 1-13) – *Claim 32*
- License data can be encrypted (column 10, lines 48-49) – *Claim 36*
- Computer readable medium, carrying instructions for license management system (column 6, lines 19-59) – *Claims 39 and 43*
- Transmitting a license request including information such as client computer identifier (column 21, line 42) and identification information for licensed product (column 10, lines 44-45, column 16, line 30) to a license database. A status message to allow for activation is sent from the license server to the client computer (column 21, lines 47-67) – *Claim 41*
- License data includes the number of licenses available for a particular program (column 14, line 65) – *Claim 42*

#### **(10) Response to Argument**

As per claims 1-4, 6-18, 20-33, 35-43

Appellant argues that the prior arts fail to teach an inventive concept of checking for the validity of license periodically. The USPTO respectfully disagrees with appellant's characterization of the prior arts' invention directed to a method/system for distributing and ensuring the licensing protocols of software products are being met. Appellant claims that the prior art does not teach the aspects of checking for the validity of licensing periodically.

Appellant contends that periodic, according to one skilled in the art, would be synonymous with an event occurring at a regular interval. However, the applicant's specification is silent with regard to any particular period or interval. During patent examination the pending claims must be interpreted as broadly as their terms reasonably allow.... The reason is simply that during

patent prosecution when claims can be amended, ambiguities should be recognized, scope and breadth of language explored, and clarification imposed.... An essential purpose of patent examination is to fashion claims that are precise, clear, correct, and unambiguous. Only in this way can uncertainties of claim scope be removed, as much as possible, during the administrative process. *In re Zletz*, 893 F.2d 319, 321-22, 13 USPQ2d 1320, 1322 (Fed. Cir. 1989). Since the applicant's specification does not provide any specific frequencies of an event occurring periodically, the American Heritage Dictionary, 2<sup>nd</sup> Edition, defines periodic as: 1-having periods or repeated cycles, 2-Happening or appearing at regular interval, **3-Taking place now and then**. Christiano teaches a license management system suitable for licensing and managing the usage of software products. The system checks or validates the licensing associated with software products whenever a user launches or requests a licensed product, (column 10, lines 53-67, column 11, lines 1-10, column 17, lines 55-67, column 18, lines 62-67), which takes place every now and then or from time to time. The system also has the capability to validate the license by running a diagnostic of valid licenses every time the user is operating the machine (column 21, lines 25-28), which takes place every now and then or from time to time. If system cannot ensure the validity of a license, it takes corrective actions accordingly (column 19, lines 1-67), which takes place now and then or from time to time.

The appellant also argues that the prior art does not verify for data corruption. However, Christiano teaches the aspects of a system keeping track of the number licenses currently in used, and checking that the user does not exceed the number of usage for a particular software program (column 7, lines 9-29). If the number of usage for a particular licensing program is violated, the system takes action accordingly. In this instance, one skilled in the art or science would know

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that violation can occur if someone tries to temper with the number of usage given out by the system (making the usage number **greater than** the maximum allowable number), as agreed in the licensing policy, thereby violating or corrupting the usage data.

**(11) Related Proceeding(s) Appendix**

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

Evens Augustin

Art Unit 3621

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